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Senate Bill \_\_\_\_\_  
By \_\_\_\_\_

House No. HB1699  
By Ritchie, II

AN ACT to amend Tennessee Code Annotated, Title 55, Chapter 4, relative to the impoundment of motor vehicle registration plates for the commission of certain offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 4, is amended by adding Sections 2 through 12 inclusive of this act as a new part 6.

SECTION 2.

(a) When a person is convicted of driving a motor vehicle after the suspension, revocation, or cancellation of the person's driver license or driving privileges, the court shall require the registration plates of the motor vehicle involved in such violation owned by such person or registered in such person's name to be surrendered to the court. The court shall issue a receipt for the surrendered registration plates.

(b) If the violator is not the owner of the motor vehicle, the court shall require the registration plates of the motor vehicle to be surrendered to the court if the vehicle was used by the violator with the permission of the owner and the owner had knowledge of the fact that the violator's driver license had been revoked or suspended prior to the commission of the offense.

SECTION 3. If a person is convicted of violating a state law or municipal ordinance, except a parking law or ordinance, regulating the operation of motor vehicles on the streets or highways, and the record of the person so convicted shows a previous conviction for driving after suspension or revocation of the person's driver license or driving privileges, the court may direct the commissioner of safety to suspend the driver license of such person for a period not to exceed one (1) year. The court may also require the registration plates of any motor vehicle owned by the violator or registered in the violator's name to be surrendered to the court.

SECTION 4. Except as otherwise provided in Part 7 of this chapter, if a person is convicted of an offense that makes mandatory the revocation of the person's driver license, or is convicted of driving a motor vehicle without having a valid driver license in force, the court may require the registration plates of any motor vehicle owned by the person or any motor vehicle registered in the person's name to be surrendered to and impounded by the court.

SECTION 5. If the court issues an impoundment order, such registration plates must be surrendered to the court either three (3) days after the order is issued or on the date specified by the court, whichever date is later. The court may destroy the surrendered registration plates. Except as provided in Sections 7 and 8 of this Act, no new registration plates may be issued to the violator or owner until the driver license of the violator has been reissued or reinstated. The court shall notify the commissioner of safety within ten (10) days after issuing an impoundment order.

SECTION 6. If the driver license revocation that is the basis for an impoundment order is rescinded, the commissioner of safety shall issue new registration plates for the vehicle at no cost, when the commissioner receives an application that includes a copy of the order rescinding the driver license revocation.

SECTION 7.

(a) A violator or owner may apply to the commissioner for registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of such

special plates if a member of the violator's household has a valid driver license, the violator or owner has a restricted license issued pursuant to Section 55-10-403, Section 55-10-406 or Section 55-50-505, or the owner is not the violator and the owner has a valid or restricted license or a member of the owner's household has a valid driver license. The commissioner may issue the special plates on payment of a twenty-five dollar (\$25) fee for each vehicle for which special plates are requested. The commissioner may not authorize the issuance of such special plates unless the court that impounded the vehicle's plates gives written approval for the issuance of the special plates.

(b) Until the driver license of the violator is reinstated or reissued, the violator shall inform the commissioner that an impoundment order is in effect when requesting any new registration plates.

SECTION 8. A registered owner may not sell a motor vehicle during the time its registration plates have been ordered surrendered or during the time its registration plates bear a special series number, unless the registered owner applies to the court that impounded such plates for consent to transfer title to the motor vehicle. If the court is satisfied that the proposed sale is in good faith and for a valid consideration, that the registered owner will be deprived of the custody and control of such motor vehicle, and that the sale is not for the purpose of circumventing the provisions of this part, it may certify its consent to the commissioner of safety. The commissioner shall then transfer the certificate of title to the new owner upon proper application and issue new registration plates. After the registration plates have been ordered surrendered to the court under this part, if the title to the motor vehicle is transferred by the foreclosure of a chattel mortgage, the cancellation of a conditional sales contract, a sale upon execution, or by decree or order of a court of competent jurisdiction, the commissioner shall then transfer the certificate of title and issue new registration plates to the new registered owner.

SECTION 9. Nothing contained in this part is intended to change or modify any provision of this title or title 67, with respect to the taxation of motor vehicles or the time within which motor vehicle taxes must be paid.

SECTION 10. A person who fails to surrender any registration plates to the court upon demand pursuant to this part, who operates a motor vehicle on a street or highway at a time when a court has ordered the surrender of its registration plates, or who fails to comply with Section 7 (b) of this act, is guilty of a Class A misdemeanor.

SECTION 11. For the purposes of this part, "rental motor vehicle" means a passenger vehicle, truck, motorcycle, or motorized bicycle:

(1) that is leased in the name of the violator, or leased jointly in the name of the violator and the violator's spouse; and

(2) that is one (1) of a fleet of two (2) or more vehicles rented for periods of thirty (30) days or less.

SECTION 12. Fees collected from the sale of license plates under this part shall be paid into the state treasury and credited to the state highway fund.

SECTION 13. Tennessee Code Annotated, Title 55, Chapter 4 is further amended by adding Sections 14 through 28 inclusive of this act as a new part 7.

SECTION 14. For purposes of this part, unless the context otherwise requires:

(1) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the violation occurred; and

(2) "Violation" means:

(A) refusal to submit to a blood alcohol or drug content test pursuant to Section 55-10-406, or conviction for driving under the influence of a drug or intoxicant, as defined in Title 55, Chapter 10, Part 4, that results in the revocation of a person's driver license or driving privileges, and also includes an alcohol-related license revocation from another state;

(B) a violation of the offenses enumerated in Title 55, Chapter 50, Part 5, that mandate the revocation of a driver license;

(C) a violation of Section 55-50-504 by a person whose driver license or driving privileges have been suspended; or

(D) the operation of a motor vehicle on the streets and highways by a person not eligible for a driver license pursuant to Section 55-50-303.

#### SECTION 15.

(a) The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver license or driving privileges are revoked for a third violation, as defined in Section 14(2)(A), within five (5) years or a fourth or subsequent violation, as defined in Section 14(2)(A), within fifteen (15) years; or

(2) a person's driver license or driving privileges are revoked for a violation of Title 55, Chapter 10, Part 4, within five (5) years of one (1) previous violation or within fifteen (15) years of two (2) or more previous violations, as defined in Section 14(2)(A); or

(3) a person is arrested for or charged with a violation described in Section 14(2)(B),(C) or (D).

(b) The order shall require the impoundment of the registration plates of the motor vehicle involved in the violation and all vehicles owned by, registered, or leased in the name of the violator, including vehicles registered jointly or leased in the name of the violator and another. An impoundment order shall not be issued for the registration plates of a rental vehicle as defined in Section 11 of this act, or a vehicle registered in another state.

SECTION 16. An impoundment order is effective when the commissioner or a police officer acting on behalf of the commissioner notifies the violator or the registered owner of the motor vehicle of the intent to impound the registration plates and produces an order of impoundment. The notice shall advise the violator of the duties and obligations set forth in

Section 19 and of the right to obtain administrative or judicial review. The notice to the registered owner who is not the violator shall include the procedure to obtain new registration plates pursuant to Section 21. If mailed, the notice and order of impoundment shall be deemed to be received three (3) days after mailing such notice to the last known address of the violator or the registered owner.

SECTION 17. On behalf of the commissioner, a police officer shall serve a notice of intent to impound and an order of impoundment if the violation is the third violation, as defined in Section 14(2)(A), within five (5) years, or the fourth or subsequent violation, as defined in Section 14(2)(A) within fifteen (15) years. On behalf of the commissioner, a police officer who is arresting a person for or charging a person with a violation described in Section 14(2)(B), (C) or (D), shall also serve a notice of intent to impound and an order of impoundment. If the vehicle involved in the violation is accessible to the officer at the time the impoundment order is issued, the officer shall seize the registration plates subject to the impoundment order. The officer shall destroy all plates seized or impounded under this part. The officer shall send to the commissioner copies of the notice of intent to impound and the order of impoundment and a notice that registration plates impounded and seized under this part have been destroyed.

SECTION 18. If the vehicle is registered to the violator, the officer shall issue a temporary vehicle permit that is valid for seven (7) days at the same time the officer issues the notices under Section 17. If the vehicle is registered in the name of another person, the officer shall issue a temporary vehicle permit that is valid for forty-five (45) days at the same time the notices are issued under Section 16. The permit must be in a form determined by the commissioner and whenever practicable must be posted on the left side of the inside rear window of the vehicle. A permit is valid only for the vehicle for which it is issued.

SECTION 19. Within seven (7) days after issuance of the impoundment notice, a person who receives a notice of impoundment and impoundment order shall surrender all motor vehicle registration plates subject to the impoundment order that were not seized by a police officer under Section 17. Registration plates required to be surrendered under this section must

be surrendered to a Tennessee police department, sheriff, or the Tennessee highway patrol, along with a copy of the impoundment order. A law enforcement agency receiving registration plates under this section shall destroy the plates and notify the commissioner that they have been destroyed. The notification to the commissioner shall also include a copy of the impoundment order.

SECTION 20. A violator may file a sworn statement with the commissioner within seven (7) days of the issuance of an impoundment order stating any material information relative to the impoundment order, including that the vehicle has been sold or destroyed and supplying the date, name, location, and address of the person or entity that purchased or destroyed the vehicle. The commissioner shall rescind the impoundment order if the violator shows that the impoundment order was not properly issued.

SECTION 21.

(a) The commissioner shall rescind the impoundment order if a person subject to an impoundment order under this part, other than the violator, files with the commissioner an acceptable sworn statement containing the following information:

(1) That the person is the registered owner of the vehicle from which the plates have been impounded under this part;

(2) that the person is the current owner and possessor of the vehicle used in the violation;

(3) the date on which the violator obtained the vehicle from the registered owner;

(4) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the registered owner;

(5) that the person was not a passenger in the vehicle at the time of the violation; and

(6) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver license.

(b) The commissioner may not rescind the impoundment order nor reissue registration plates to a registered owner if the owner knew or had reason to know that the violator did not have a valid driver license on the date the violator obtained the vehicle from the owner.

(c) If the impoundment order is rescinded, the owner shall receive new registration plates at no cost, if the plates were seized and destroyed.

## SECTION 22.

(a) At any time during the effective period of an impoundment order, a person may request in writing a review of the impoundment order by the commissioner. On receiving a request, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. The commissioner shall report in writing the results of the review within fifteen (15) days of receiving such request. The review provided in this section shall not be subject to the contested case provisions of the uniform administrative procedures act codified at title 4, chapter 5. As a result of this review, the commissioner may authorize the issuance at no cost of new registration plates to the registered owner of the vehicle if the registered owner's driver license or driving privileges were not revoked for a refusal to submit to a blood alcohol or drug content test pursuant to Section 55-10-406, or for conviction for driving under the influence of an intoxicant or drug pursuant to Title 55, Chapter 10, Part 4.

(b) Review under this Section shall take place, if possible, at the same time as any administrative review of the person's license revocation pursuant to Section 55-50-502, 55-10-403 or 55-10-406.

SECTION 23. (a) Within thirty (30) days following receipt of a notice and order of impoundment under this section, a person may petition the court for review. The petition must include the petitioner's date of birth, driver license number, and date of the violation. The



petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order for impoundment.

(b) The filing of the petition shall not stay the impoundment order. The reviewing court may order a stay of the balance of the impoundment period if the hearing has not been conducted within sixty (60) days after filing of the petition upon terms the court deems proper. The court shall order either that the impoundment be rescinded or sustained, and forward the order to the commissioner of safety. The court shall file its order within fourteen (14) days following the hearing.

(c) The scope of a hearing under this section is limited to:

(1) whether the violator owns, is the registered owner of, possesses, or has access to the vehicle used in the violation;

(2) whether a member of the violator's household has a valid driver license, the violator or registered owner has a restricted license issued pursuant to Sections 55-10-403, 55-10-406 or 55-50-505, the registered owner is not the violator and the registered owner has a valid or restricted driver license, or a member of the registered owner's household has a valid driver license; and

(3) If the impoundment is based on a violation described in Section 14(2)(B), (C) or (D), whether the police officer had probable cause to believe the violator committed the violation and whether the evidence demonstrates that the violation occurred.

(d) In a hearing under this section, the following shall be admissible in evidence:

(1) certified copies of the violator's driving record; and

(2) certified copies of motor vehicle registration records bearing the violator's name.

SECTION 24. If the driver license revocation that is the basis for an impoundment order is rescinded, the commissioner of safety shall issue new registration plates for the vehicle at no cost, when the commissioner receives an application that includes a copy of the order

rescinding the driver license revocation. If the impoundment order was based on a violation described in Section 14(2)(B), (C) or (D), and the charges have been dismissed with prejudice or the violator has been acquitted of the violation, the commissioner of safety shall issue new registration plates for the vehicle at no cost, when the commissioner receives an application that includes a copy of the order dismissing the charges or a copy of the judgment of acquittal.

#### SECTION 25.

(a) A violator or registered owner may apply to the commissioner for registration plates, which must bear a special series of numbers or letters so as to be readily identified by traffic law enforcement officers. The commissioner may authorize the issuance of special plates if:

(1) the violator has a qualified licensed driver whom the violator must identify.

(2) the violator or registered owner has a restricted license issued pursuant to Sections 55-10-403, 55-10-406 or 55-50-505;

(3) the registered owner is not the violator and the registered owner has a valid or restricted driver license; or

(4) a member of the registered owner's household has a valid driver license.

(b) The commissioner may issue the special plates on payment of a twenty-five dollar (\$25) fee for each vehicle for which special plates are requested.

#### SECTION 26.

(a) A registered owner may not sell a motor vehicle during the time its registration plates have been ordered impounded or during the time its registration plates bear a special series number, unless:

(1) the sale is for a valid consideration;

(2) the transferee does not reside in the same household as the registered owner; and

(3) all elements of Title 55, Chapter 3 are satisfied.

(b) Upon an applicant exhibiting compliance with the provisions of subsection (a), the commissioner may transfer title to the new owner of the motor vehicle and issue new registration plates.

SECTION 27. A person is guilty of a Class A misdemeanor who:

- (1) fails to comply with an impoundment order issued pursuant to this part;
- (2) files a false statement under Section 18 or Section 19;
- (3) operates a motor vehicle on a street or highway when the vehicle is subject to an impoundment order issued pursuant to this part; or
- (4) fails to notify the commissioner of the impoundment order when requesting new plates.

SECTION 28. Fees collected from the sale of motor vehicle registration plates under this part shall be paid into the state treasury and credited to the state highway fund.

SECTION 29. The commissioner of safety is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 30. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 1995.